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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/263,801	03/06/1999	LAWRENCE A. FISH	12013US02	2251
23446	7590	07/31/2006	EXAMINER	
MCANDREWS HELD & MALLOY, LTD 500 WEST MADISON STREET SUITE 3400 CHICAGO, IL 60661			LONSBERRY, HUNTER B	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 07/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/263,801	FISH ET AL.
	Examiner	Art Unit
	Hunter B. Lonsberry	2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 May 2006.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 2-30 and 37-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 4,21-23,28-30,37-39 and 41-50 is/are allowed.
- 6) Claim(s) 2,3,5-20,24-27,31-36,40 and 51 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Allowable Subject Matter***

1. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record does not disclose nor sufficiently suggest the system as claimed by applicant in claim 21 in which each push pull media server computer system includes an affiliate address book maintenance application and the push pull media system is adapted to transfer the affiliate address book to the production computer systems.

Claims 4, 21-23, 28-30, 37-39 and 41-50 are allowed.

### ***Response to Arguments***

2. Applicant's arguments filed 5/12/06 have been fully considered but they are not persuasive.

Applicant argues that the term "TCP/IP ACKs" does not appear in the Dawson reference (Pages 19-20), that Dawson does teach "traffic and billing software" but does not describe the operation of any such software and that the desired files are already stored on the hard drive storage 7 and does not teach any system for updating the contents of hard drive 7, that Dawson does not teach anything like the producer 12 of the present application, fails to teach a "tickle" or triggering communication from the delivery sever to cause a remote client to access the delivery server and download

information, nor does Dawson teach that information delivered to the affiliates is enclosed in a package and that package includes an envelope portion having addressing information (Pages 21-22).

Regarding applicant's argument, the Examiner disagrees. While Dawson does not explicitly cite the term TCP/IP ACK, Dawson does teach the use of TCP/IP protocol formatted packets (see column 6, lines 37-column 7, line 8, the examiner equates the package to be a packet, with the payload section of the packet to contain the information to be delivered to the affiliate, see column 6, line 65-column 7, line 8) and discloses that the packets (see figure 5) include a header portion which the Examiner equates to the envelope portion having addressing information, which informs where the address is to be. [http://www.cisco.com/univercd/cc/td/doc/cisintwk/ito\\_doc/ip.htm](http://www.cisco.com/univercd/cc/td/doc/cisintwk/ito_doc/ip.htm) provides a more in-depth description of TCP/IP formatting , in particular on the second page which shows an addressing portion and a data portion. The same document also discloses the use of TCP/IP ACKs which stand for ACKnowledgements on pages 9-10, ACKs allow for the transmission and retransmission of lost, delayed, duplicate or misread packets, the ACKnowledgment allows the sender to transmit the data and to know how much data should be transmitted. In this case, the ACK is the trigger or "tickle", and the request from the client system is the pull as required by claims 2-3.

The Examiner also notes that the claims are silent with regards to "traffic and billing software"

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 2-3, and 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,594,490 to Dawson.

Regarding claim 2, Dawson discloses an integrated system for distribution of digital audio, video, or image information to one or more recipients (figure 1), the integrated distribution system comprising

One or more broadcast channel portions (satellite 31) substantially reserved for transmission of relatively large data files including digital audio, video, or image information (column 5, line 59-column 6, line 12, column 7, lines 36-48);

A push pull media server computer system 9 (column 5, lines 16-45) having a server internet connection to the internet (via modem 17, column 9, lines 43-56) and a broadcast connection 31 to the one or more broadcast channel portions;

A plurality of affiliate computer systems 39 (receiver server 39, figure 2, column 9, lines 14-34) located remotely from the media server computer system at least two of said affiliate computer each having an affiliate Internet connection to the internet and thereby to the media server computer system (PSTN/Internet ; column 9, lines 43-56)

A plurality of broadcast receivers (figure 2, SCPC 33), each broadcast receiver being connected to one among the affiliate computer systems 39, whereby the broadcast receiver receives said transmission of data files and distributed said data files to the connected affiliate computer system (column 8, lines 63-column 9, line 34).

Wherein the affiliate computer system pulls said audio, video or image information from the media server system in response to a triggering communication from said media server system (column 6, lines 55-64, column 7, lines 9-30, Dawson utilizes TCP/IP acknowledges, if the data is received in error the receiver requests the same packet again from the computer system)

Regarding claim 3, Dawson discloses an integrated system for distribution of digital audio, video, or image information to one or more recipients (Figures 1-2), the integrated distribution system comprising in combination:

a high bandwidth channel 31 separate from the Internet for transmission of at least digital audio, video, or image information (column 5, line 59-column 6, line 12, column 7, lines 36-48);

a push-pull media server system 9 (column 5, lines 16-45) having a server Internet connection to the Internet and a broadcast connection to the high bandwidth channel (via modem 17, column 9, lines 43-56);

a plurality of affiliate computers (receiver server 39, figure 2, column 9, lines 14-34) located remotely from the push-pull media server computer, at least two of said affiliate computers each having a affiliate internet connections to the Internet and

thereby to the push-pull media server system (PSTN/Internet ; column 9, lines 43-56);  
and

a plurality of high bandwidth broadcaster receivers (figure 2, SCPC 33), each high bandwidth broadcast receiver being in communication with one among the plurality of affiliate computers 39 and being adapted to receive the transmission of said at least digital audio, video, or image information through said high bandwidth channel and distribute said audio, video or image information to the affiliate computer in communication with said broadcaster receiver (column 8, lines 63-column 9, line 34),

Wherein the affiliate computer system pulls said audio, video or image information from the media server system in response to a triggering communication from said media server system (column 6, lines 55-64, column 7, lines 9-30, Dawson utilizes TCP/IP acknowledges, if the data is received in error the receiver requests the same packet again from the computer system).

Regarding claims 5-6, Dawson discloses in figure 1, that the one-way high bandwidth broadcast channel is a satellite connection (column 8, lines 31-47) that is independent of the Internet connection.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8-9, 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,594,490 to Dawson in view of U.S. Patent 6,011,548 to Thacker (of record).

Regarding claims 8-9, and 11-13, Dawson discloses that the broadcast receiver (SCPC 33) provides the push information to the receiver enabled affiliate computer system 39 via a LAN connection from SLB 37 (column 6, lines 65-column 7, line 9, column 8, lines 63-column 9, line 34).

Dawson does not disclose the use of an Ethernet port on the broadcast receiver.

Thacker discloses a cable modem system which utilizes an Ethernet port to transmit data from the cable modem to a user's PC (column 1, line 63-column 2, line 4, column 4, lines 8-53), thus taking advantage of a commonly used interface, and make use of the high bandwidth that Ethernet provides.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the broadcast receiver of Dawson to utilize an Ethernet port on the broadcast receiver as taught by Thacker, thus taking advantage of a commonly used interface, and make use of the high bandwidth that Ethernet provides.

5. Claims 14, 16-17, 19-20, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,594,490 to Dawson in view of U.S. Patent 6,011,548 to Thacker in further view of U.S. Patent 6,385,647 to Willis (of record).

Regarding claims 14, 16-17, 19-20, and 51, Dawson discloses a broadcast receiver which communicates with an affiliate computer via a LAN 43.

Dawson does not disclose utilizing the IGMP protocol.

Willis discloses a network utilizing IGMP protocol for transmitting unidirectional data to a number of receivers (Figures 2-4, column 10, line 40-column 11, line 49), thus reducing the need for additional bandwidth, as the same data is broadcast to a number of receivers simultaneously

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Dawson to use IGMP as taught by Willis, to increase the amount of available bandwidth in the network as the same data is broadcast to a number of receivers simultaneously.

6. Claims 24-25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,594,490 to Dawson in view of the UPS Web Tracking Application (of record,

<http://web.archive.org/web/19970605110457/www.ups.com/tracking/tracking.html>).

Regarding claims 24-25 and 27, Dawson discloses a push pull system that delivers content to a remote computer system.

Dawson does not disclose the use of a web based content delivery tracking application which enables a user to determine the delivery status of digital audio, video or image information to affiliate computer systems.

The UPS tracking application is a web-based application which is utilized to retrieve the delivery status of a shipped item (see attached screenshot), thus enabling a user to estimate when a shipment will arrive, and know where the package is at any point in the distribution chain.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Dawson to utilize a tracking application as taught by the UPS tracking application, thus enabling a user to estimate when a shipment will arrive, and know where the package is at any point in the distribution chain.

7. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,594,490 to Dawson in view of the UPS Web Tracking Application (of record, <http://web.archive.org/web/19970605110457/www.ups.com/tracking/tracking.html>) and U.S. Patent 6,011,548 to Thacker.

Regarding claim 40, Dawson teaches a content delivery system.

The combination of Dawson and the UPS tracking application does not disclose the use of an Ethernet port on the broadcast receiver..

Thacker discloses a cable modem system which utilizes an Ethernet port to transmit data from the cable modem to a user's PC (column 1, line 63-column2, line 4, column 4, lines 8-53), thus taking advantage of a commonly used interface, and make use of the high bandwidth that Ethernet provides.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the broadcast receiver of Dawson and UPS tracking application to utilize an Ethernet port on the broadcast receiver as taught by Thacker, thus taking advantage of a commonly used interface, and make use of the high bandwidth that Ethernet provides.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

[http://www.cisco.com/univercd/cc/td/doc/cisintwk/ito\\_doc/ip.htm](http://www.cisco.com/univercd/cc/td/doc/cisintwk/ito_doc/ip.htm)

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 571-272-7298. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HBL



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